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10	UNITED STATES DISTRICT COURT
11	CENTRAL DISTRICT OF CALIFORNIA
12	WESTERN DIVISION
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14	UNITED STATES OF AMERICA, Case No. CV 08-4455 SVW (RCx)
15	Petitioner, {
16	vs. ORDER TO SHOW CAUSE
17	JAMES PATRICK O'MALLEY,
18	Respondent.
19	<u> </u>
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21	Upon the Petition and supporting Memorandum of Points and Authorities, and
22	the supporting Declaration to the Petition, the Court finds that Petitioner has
23	established its prima facie case for judicial enforcement of the subject Internal
24	Revenue Service ("IRS" and "Service") summonses. See <u>United States v. Powell</u> ,
25	379 U.S. 48, 57-58, 85 S. Ct. 248, 13 L. Ed. 2d 112 (1964); see also, Crystal v. United
26	States, 172 F.3d 1141, 1143-1144 (9th Cir. 1999); United States v. Jose, 131 F.3d
27	1325, 1327 (9th Cir. 1997); Fortney v. United States, 59 F.3d 117, 119-120 (9th Cir.
28	1995) (the Government's <i>prima facie</i> case is typically made through the sworn

declaration of the IRS agent who issued the summons); accord, United States v. 1 2 Gilleran, 992 F.2d 232, 233 (9th Cir. 1993). Therefore, **IT IS ORDERED** that Respondent appear before this District Court 3 of the United States for the Central District of California, in Courtroom No. 6, 4 5 United States Courthouse X312 North Spring Street, Los Angeles, California, 90012 6 Roybal Federal Building and United States Courthouse 255 E. Temple Street, Los Angeles, California, 90012 7 8 Ronald Reagan Federal Building and United States Courthouse 411 West Fourth Street, Santa Ana, California, 92701 9 10 Brown Federal Building and United States Courthouse 3470 Twelfth Street, Riverside, California, 92501 11 12 **August 18** , **2008**, at 1:30 p.m., 13 and show cause why the testimony and production of books, papers, records, and other 14 15 data demanded in the subject Internal Revenue Service summonses should not be compelled. 16 IT IS FURTHER ORDERED that copies of this Order, the Petition. 17 Memorandum of Points and Authorities, and accompanying Declaration be served 18 promptly upon Respondent by any employee of the Internal Revenue Service or the 19 20 United States Attorney's Office, by personal delivery or by certified mail. IT IS FURTHER ORDERED that within ten (10) days after service upon 21 Respondent of the herein described documents, Respondent shall file and serve 22 a written response, supported by appropriate sworn statements, as well as any desired 23 motions. If, prior to the return date of this Order, Respondent files a response with the 24 Court stating that Respondent does not desire to oppose the relief sought in the Petition, 25 nor wish to make an appearance, then the appearance of Respondent at any hearing 26 pursuant to this Order to Show Cause is excused, and Respondent shall be deemed to 27 have complied with the requirements of this Order. 28

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IT IS FURTHER ORDERED that all motions and issues raised by the 1 pleadings will be considered on the return date of this Order. Only those issues raised by motion or brought into controversy by the responsive pleadings and supported by sworn statements filed within ten (10) days after service of the herein described documents will be considered by the Court. All allegations in the Petition not contested by such responsive pleadings or by sworn statements will be deemed admitted. DATED: This <u>23rd</u> day of July, 2008. UNITED STATES DISTRICT JUDGE Presented By: THOMAS P. O'BRIEN **United States Attorney** SANDRA R. BROWN Assistant United States Attorney Chief, Tax Division /s/JOSEPH P. WILSON Assistant United States Attorney Attorney for the United States of America